

## **Standard Terms and Conditions Garrigues Colombia SAS**

These Standard Terms and Conditions are applicable to all professional services provided by Garrigues and are additional to any specific agreement entered into between Garrigues and the Client (the “**Engagement Letter**”), which will prevail over this document in the event of any discrepancy between the two. In this document: (i) “**Garrigues**” means Garrigues Colombia SAS, a Colombian company with tax identification number 900609342; (ii) “**Garrigues Group**” means the group formed by J&A Garrigues S.L.P, a Spanish professional services firm holding employer identification number B-81709081, and the entities associated with it (but excluding other firms with which Garrigues may have formed an alliance, details of any such alliances may be consulted at [www.garrigues.com](http://www.garrigues.com)) on the date on which the Engagement letter is issued and that are identified as such in the Engagement Letter sent to the Client; (iii) “**Client**” is the intended recipient of the Engagement Letter, and (iv) “**Services**” are the professional services under the Engagement Letter.

### **1. Scope of application**

**1.1** The Parties to the legal relationship governing the provision of Services are Garrigues and the Client. Such Services shall be understood to be provided solely and exclusively to the Client and may not be assigned by the Client to third parties or used by persons other than the Client, without the prior express written authorization of Garrigues.

**1.2** The holder of the legal relationship with the Client is Garrigues, on which are conferred all of the rights and obligations specific to the performance of the professional activity, regardless of the participation of other Garrigues Group entities or of the specific professionals and employees through whom the Services are provided. Garrigues accepts full liability with respect to the Services provided in its name by other Garrigues Group entities or Garrigues professionals or employees.

### **2. Services**

**2.1** Garrigues shall provide the Client with the Services specified in the Engagement Letter issued for each specific engagement or case. Any amendment to the Engagement Letter shall be agreed on by Garrigues and the Client and placed on written record.

**2.2** Any decision regarding the performance, monitoring or implementation of any advisory services, counseling, opinions or recommendations provided by Garrigues within the context of the Services is at the sole discretion of the Client, which adopts such decision at its responsibility.

### **3. Involvement of other professionals unrelated to Garrigues**

**3.1** Unless expressly provided otherwise, the Services shall be confined exclusively to the Colombian jurisdiction.

**3.2** In the event of the participation of firms not belonging to the Garrigues Group or other external advisers unrelated to the Garrigues Group (the “**External Professionals**”), unless expressly provided otherwise: (i) the involvement of Garrigues in the case in question shall be limited to activities of coordination of and contact with the External Professionals; (ii) the professional services relationship shall be established directly between the Client and each of the External Professionals; (iii) Garrigues’ fees shall be independent of those of the External Professionals, and (iv) Garrigues shall assume no liability whatsoever for any advisory services provided to the Client by the External Professionals.

### **4. Engagement team**

Notwithstanding any specification in the Engagement Letter of the professionals or employees assigned to the Client or engagement in question, Garrigues may, where it deems fit or where necessary with regard to the needs of the Client or engagement, replace any of such professionals or employees or modify the number of professionals or employees assigned to the Client or engagement.

### **5. Fees and expenses**

**5.1** The fees for the provision of the Services to the Client shall be those established in the Engagement Letter, in line with the quantification methods established therein.

**5.2** Unless specified otherwise, the estimated or budgeted fees are stated net of VAT and of any other such indirect taxes as may be applicable, which shall be included in the invoice as separate items.

**5.3** The fee amount does not include any such reasonable out-of-pocket expenses as may be incurred by Garrigues in the provision of the Services, which must be reimbursed by the Client.

**5.4** Any services other than the Services and which are complementary thereto (such as, *inter alia*, notaries, registries, management of announcements in the press or official gazettes, among others) shall be arranged and paid directly by the Client. Notwithstanding the above, such services may be arranged and paid for by Garrigues on behalf of the Client, where the Client so requests and provided that, at the request of Garrigues, the Client has arranged the relevant retainer beforehand. Under no circumstances shall Garrigues be obliged to

advance or provide funds to the Client or make payment on behalf of the Client in respect of any expenses, services or disbursements not previously agreed on and on the conditions referred to above.

- 5.5 Any retainers paid or deposits made by the Client shall be assigned by Garrigues to pay amounts on behalf of the Client. The Client expressly authorizes Garrigues, subject to prior notice to the Client, to use the retainer paid or deposit made by the Client to pay any such amount as may be owed to Garrigues in respect of fees or expenses, where such amount is net, due and payable.

- 5.6 The fees and expenses must be settled even where the transaction or case to which the Services refer is not completed successfully.

- 5.7 The Client's obligation to pay the fees and expenses to Garrigues is separate from any right to which the Client may be entitled with respect to third parties in relation to the Services provided. Thus, among other potential circumstances, in litigation-related or court matters, any order to pay costs to the other party does not exempt or release the Client from paying Garrigues the relevant fees and expenses.

## **6. Billing and payment**

- 6.1 Unless the parties expressly agree otherwise, the invoices issued by Garrigues shall be payable on demand, in the currency and on the terms and conditions they contain, and Garrigues reserves the right to charge late-payment interest in the event of any delay in payment of the invoices with respect to their due date.

- 6.2 Any objection on the part of the Client in relation to an invoice must be sent to the Garrigues partner in charge of the engagement as soon as possible and, in such case, the portion of the invoice in relation to which there is no objection shall be payable.

- 6.3 In the event of any advance or pre-payments made by the Client pursuant to the Engagement Letter, where, for any reason, there is a surplus in favor of the Client on termination of the Services, Garrigues shall immediately repay such surplus, in line with the Client's instructions for such purpose.

- 6.4 In the event of the failure to pay an invoice, Garrigues, upon giving written notice and pursuant to the professional regulations and code of ethics governing its activity, may suspend any Services provided to the Client, without such circumstance entitling the Client to make any claim or complaint for such suspension or for any such damage as may derive from such suspension. For as long as such situation of non-payment is maintained and also subject to the provisions of the governing professional regulations or code of ethics, Garrigues may exercise the right to retain any such documents of the Client as may have been prepared

by or with the participation of Garrigues that may be in its possession at such time.

- 6.5 Where the Client requests the provision of Services for companies under its control or for any other third parties, or in other circumstances in which the legal costs are borne by third parties, Garrigues shall directly invoice the entity indicated, although the Client shall bear liability for the payment of any amount not settled on the due date.

## **7. Information, documentation and confidentiality**

- 7.1 Garrigues shall request from the Client all the information and documentation that, in its opinion, is required for the proper and efficient provision of the Services. The information and documentation shall be sent by the Client to Garrigues by the means deemed most appropriate. The Client represents and warrants that it is duly authorized and empowered to send the documentation and information it provides to Garrigues and shall hold Garrigues harmless from and against any third-party claim due to access to the information or documentation sent by the Client or at its request.

- 7.2 Garrigues shall not be liable under any circumstances for any consequences that may arise for the Client by reason of having sent Garrigues any inaccurate, inexact or incomplete information or documentation.

- 7.3 Garrigues undertakes to safeguard the confidentiality of all information and documentation received from the Client that is not in the public domain and may only disclose such information and documentation with the authorization of the Client or where ordered to do so by any administrative or court authority or an authority legally authorized for such purpose. Where Garrigues outsources word processing, photocopying, translation or any other type of service to providers, it shall safeguard the confidentiality of the Client's information and documentation, ensuring that the relevant providers sign a confidentiality agreement.

- 7.4 Garrigues' duty of confidentiality with respect to the information and documentation received from the Client shall not apply in respect of the representatives and contact persons of the Client itself or of other professional advisers of the Client participating in the same engagement, unless the Client establishes any prior directions or restrictions to the contrary.

- 7.5 On termination of the provision of Services, Garrigues shall return to the Client all such original documentation as may be in its possession in relation to such Services or the specific case to which the Services refer, subject to prior notification from the Client of the terms on which such return is to be carried out.

- 7.6 The Client authorizes Garrigues to retain a copy of any information and documentation furnished by the Client in relation to the provision of the Services for the length of time it sees fit, subject to Garrigues' duty of confidentiality. Garrigues does not accept any obligation whatsoever to retain such copies for a specific period of time, and may destroy its files without requiring any authorization whatsoever. If the Client needs Garrigues to preserve its files, it must expressly so request and shall assume any supplementary costs that Garrigues may incur in respect of maintaining and accessing the files and sending documents.
- 7.7 Unless expressly indicated otherwise by the Client, the Client authorizes Garrigues to make public its involvement in the provision of the Services to the Client, provided no confidential information is disclosed.
- 8. Communications**
- 8.1 The Client accepts unencrypted e-mails as a valid means for the flow and exchange of documentation and information and, in general, as a channel of communication with Garrigues for the provision of the Services. The Client exempts Garrigues from any liability for the interception of or access to e-mails by unauthorized persons, as well as from any damage or losses that may be caused to the Client as a result of computer viruses, network failures or similar circumstances, unless such circumstance is attributable to Garrigues.
- 8.2 By mutual agreement and with respect to any predefined documents or information of particular materiality or sensitivity that so require, the parties may establish additional security measures and procedures for the sending and exchange of information and documentation.
- 9. Conflicts of interest**
- 9.1 Garrigues provides services to a significant number of clients in different jurisdictions, in a very broad range of specialized fields and areas. Garrigues has in place internal procedures to check and confirm potential conflicts of interest. Nonetheless, where the Client is aware of any circumstance that may, in its opinion, give rise to a situation of conflict of interest, it must notify Garrigues immediately. Moreover, Garrigues shall immediately inform the Client where it becomes aware of any conflicts of interest that may arise due to any circumstance, whether anticipated or not.
- 9.2 Garrigues may act on behalf of any third party (even in the event that the interests of such third party are contrary to the interests of the Client, whether in or out of court), provided such services refer to cases or matters that bear no relation to the matters engaged by the Client from Garrigues (and even where this may entail acting against the Client itself or against any other entity in which it has an interest), without there being any conflict of

interest in such circumstance preventing Garrigues from accepting and performing such engagements in favor of third parties, except in those cases in which, pursuant to the professional regulations or code of ethics governing Garrigues' activity, this proves impossible.

## **10. Statutory compliance**

- 10.1 Pursuant to the legislation in force on anti-asset laundering and counter-terrorist financing, Garrigues is subject to obligations to check the identity of the Client and its operations and activities. The Client undertakes to provide Garrigues, completely and accurately, with all such information as may be necessary and required of it for such purposes (both from the Client itself and, as the case may be, from its shareholders, investors, directors, related persons, etc.) and expressly authorizes Garrigues to take any steps towards confirmation that it deems appropriate in such connection. Where it fails to obtain the necessary information, Garrigues shall be unable to provide the Services to the Client, without such circumstance giving rise to any type of liability for Garrigues.
- 10.2 Garrigues may be subject to the obligation to notify the Financial Analysis and Information Unit of any fact or operation in relation to which there is any indication or certainty that it is related to asset laundering or the financing of terrorism, and must refrain from performing any operation where such circumstances come to light. Garrigues shall not be liable to the Client for any such damage or loss as may be suffered by the Client as the result of Garrigues' compliance with such statutory obligations.
- 11. Termination**
- 11.1 The Client may deem the provision of Services to have been terminated at any time, without any need to plead any grounds in such connection.
- 11.2 Subject to compliance with the professional regulations or code of ethics regulating its activity, Garrigues may terminate the provision of Services in progress (or reject the management of one or more specific cases) at any time, with reasonable advance notice, due to loss of trust or ethical reasons or reasons of any other kind.
- 11.3 The Client shall at all times be obliged to pay the fees and expenses accrued to Garrigues up to the date of termination of the Services.
- 11.4 On termination of the provision of the Service, Garrigues shall be under no obligation to provide any additional service or furnish the Client with updated versions of the information, opinions, recommendations, counseling, or advisory services provided due to changes to the legislation or facts subsequent to that termination.

- 11.5 Unless Garrigues and the Client agree otherwise, any access by the Client to the website (extranet) of the Service, in addition to the use of any connectivity computer programs licensed for such purposes and the sending of newsletters, round-ups and other commercial communications between the Client and Garrigues, shall cease on the date of termination of the Services.
12. **Liability**
- 12.1 Garrigues accepts full liability for the Services provided in its name by other Garrigues Group entities or by professionals or employees belonging to the Garrigues Group, be they partners, employees or consultants.
- 12.2 Garrigues shall be liable to the Client for any such damage or loss as may be caused to the Client for reasons attributable to Garrigues or its professionals or employees as a result of the willful misconduct or gross negligence of any of them. Other than in the above cases, the extent of Garrigues' liability shall be governed by the terms of the relevant Engagement Letter. Under no circumstance shall Garrigues be liable for any damage deriving from or caused, in whole or in part, by misrepresentation, concealment or any other conduct on the part of the Client that may be willful or negligent, or not performed in conformity with the principles of good faith, or for breaches arising for reasons outside of its reasonable control.
- 12.3 Garrigues' liability shall be limited to direct damage actually caused to the Client.
- 12.4 Garrigues' liability to the Client in relation to the Services is subject to a written claim sent by the Client, determining in sufficient detail the nature of the claim and the amount claimed, within not more than three (3) years from the date of termination of the provision of the Services, other than in the event of willful misconduct, in which case the statute of limitations shall apply.
- 12.5 Garrigues' potential liability shall arise solely with respect to the Client. Garrigues shall not be liable for any such damage as may be caused to third parties as the result of any use the Client may make of the Services outside their intended purpose, unless such use has been expressly authorized by Garrigues, in which case Garrigues' liability shall be brought into line with the terms and conditions agreed on for such purpose.
- 12.6 The Client undertakes not to induce any third party to file a claim against other Garrigues Group entities or against Garrigues Group professionals or employees in relation to the services.
- 12.7 In the event of a claim by the Client against Garrigues on any ground, where External Professionals or other persons or entities unrelated to Garrigues Group act in the engagement forming the subject matter of the Services and may be held liable, Garrigues' proportional liability to the Client may not be increased as a result of: (i) an agreement with another liable person limiting or exempting their liability; or (ii) the inability to obtain indemnification from another liable person.
- 12.8 Under no circumstances shall Garrigues be deemed exempt from liability for acts or omissions where relief from liability is not available or where liability may not be reduced pursuant to the applicable legislation.
13. **Data protection**
- 13.1 The signatory is hereby informed that the personal data it has provided to Garrigues as a consequence of the acceptance of these Standard Terms and Conditions and the signing of the Engagement Letter as well as those data which may be obtained by Garrigues in the future due to its professional relationship with the Client ("**Signatory's Personal Data**"), will be included on a database controlled and processed by Garrigues. The Signatory's Personal Data shall be processed for the following activities: maintaining, developing, controlling and implementing the Client's professional relationship with Garrigues within the context of the provision of the Services; communicating with the Client for information or marketing purposes; billing and collecting payment for the Services; and reporting on the advisory services forming the subject matter of the Services in order to include them as Garrigues credentials. On acceptance of the Engagement Letter, Garrigues shall inform the Client of any other potential types of processing of the Signatory's Personal Data that it may carry out, subject to the Client's consent.
- 13.2 The Signatory may exercise at all times the rights to know, update, rectify and request the erasure of its Personal Data; request proof of the authorization granted; be informed of how its Personal Data are used; file complaints for infringements of the provisions of data protection legislation; revoke the authorization granted and consult previously authorized personal data. It may exercise its rights by sending a request by post to Garrigues, or by sending an e-mail to the following address: [protecciondedatos.colombia@garrigues.com](mailto:protecciondedatos.colombia@garrigues.com).
- 13.3 In processing the Signatory's Personal Data, Garrigues undertakes and agrees:
- (i) to process the Data in line with the Signatory's instructions from time to time;
  - (ii) to use the Data exclusively for the purposes of the provision of the Services, without using or applying such Data for any other purpose;

- (iii) except as provided for in Section 13.2 above, not to disclose the Data to third parties, not even for the purposes of data storage;
  - (iv) to process the queries and claims made by the Signatory on the terms stipulated in Law 1581 of 2012, Decree 1377 of 2013 and any legislation amending them; and
  - (v) to guarantee to the Signatory the due exercise of its rights in its Personal Data.
- 13.4** The Client is hereby informed and expressly and voluntarily authorizes Garrigues to process its Personal Data so that they may be used by Garrigues for the purposes provided for in Section 13.1 The processing of the Personal Data by any third party that acquires the status of data processor shall be performed in compliance with data processing legislation and Garrigues shall execute the relevant services contract with each of them.
- 14. IP**
- 14.1** The IP rights in the documentation created and in the original ideas conceived by reason of the provision of the Services shall be held by Garrigues.
- 14.2** The Client may utilize, exclusively for its own use, all the documentation created by Garrigues by reason of the provision of the Services, and may not distribute such documentation or provide access thereto to other persons other than the Client, without the express prior written consent of Garrigues.
- 15. Entire Agreement**
- 15.1** These Standard Terms and Conditions replace and render null and void any earlier agreement between the Client and Garrigues. Unless provided otherwise by the Client and Garrigues, these terms and conditions represent the entire agreement reached by the parties in relation to the professional services engaged, and shall generally be supplemented by one or more Engagement Letters which, among other elements, shall include the specific services to be provided, the team responsible for doing so and the relevant fees.
- 15.2** Unless provided otherwise, these Standard Terms and Conditions shall apply to any future engagement made by the Client to Garrigues.
- 15.3** Garrigues shall not be obliged to commence the provision of the Services until it has received a copy of the Engagement Letter and of these Standard Terms and Conditions signed by the Client for its files and payment of the fees linked to acceptance of the Engagement Letter has been made, on the terms provided for therein. The sending of any instructions to Garrigues from the

Client shall be construed as a tacit acceptance of these Standard Terms and Conditions.

- 15.4** Should it be determined that any of these terms and conditions are null and void, none of the remaining terms and conditions shall be affected thereby, and they shall remain fully in force.

## **16. Amendments**

Garrigues may amend these Standard Terms and Conditions at any time, provided that such amendments have been notified to the Client and a period of 21 calendar days has passed without there having been any written objection from the Client during such period. For the avoidance of doubt, the Client shall be deemed to have accepted the amendments if, in that period, the Client does not make any written objection in that connection.

## **17. Governing law. Jurisdiction**

- 17.1** The relationship between the Client and Garrigues is expressly subject to Colombian law.
- 17.2** In order to hear any such disputes or claims as may arise over the interpretation or performance of the legal relationship between the Client and Garrigues, the two parties, with an express waiver of any other jurisdiction to which they may be entitled and notwithstanding the mandatory provisions on jurisdiction, voluntarily submit to the courts and tribunals of Colombia.

**Garrigues Colombia SAS  
Version: January 2014**

I have read, understood and accepted these standard terms and conditions.

Signed: .....

Date: .....